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## DIGEST OF RECENT VIRGINIA DECISIONS.

## Supreme Court of Appeals.

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

HARRIS *v.* COMMONWEALTH.

Jan. 20, 1921.

[105 S. E. 541.]

**1. Witnesses (§ 337 (5)\*—Cross-Examination of Defendant as to Former Imprisonment Held Proper**—Defendant, who testified on direct examination as to his residence and occupation during a certain period, could not complain of cross-examination eliciting that during a portion of such time he was confined in prison.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 957.]

**2. Witnesses (§ 350\*)—Prosecution's Failure to Further Cross-Examine Defendant as to Former Imprisonment Held Not Error.** Where defendant had testified on direct examination as to his residence and occupation during certain period, and had been required to testify on cross-examination that at one time during such period he had been confined in prison, the failure of the prosecution to inquire as to the cause and nature of the imprisonment, leaving the matter to conjecture of the jury, held not error, since the defendant, if he desired, could have told the jury all about his imprisonment on redirect examination.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 962.]

**3. Robbery (§ 27 (1)\*—Refusal of Instruction as to Illegality of Taking Money from Defendant's Person by Police Officer Held Proper.**—In a prosecution for robbery, refusal of instruction that the taking and withholding of certain money from defendant's person by the police officer who made the arrest was contrary to law held proper, having reference to a matter not affecting defendant's guilt or innocence.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 337.]

**4. Robbery (§ 27 (1)\*—Refusal of Instruction as to Illegality of Confinement of Defendant in Jail without Warrant Held Proper.**—In prosecution for robbery, refusal of instructions that the police officer making the arrest had no right to confine defendant in jail without a warrant held proper, since it related to a matter not affecting the guilt or innocence of defendant.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 720.]

**5. Robbery (§ 27 (1)\*—Refusal of Instruction as to Right of Po-**

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**lice Officer to Take Hat from Defendant's Parents' Home Proper.**—In prosecution for robbery, refusal to instruct that police officer had no right to take a hat, and use it against defendant, from the home of his parents, held proper, since it related to a matter not affecting the defendant's guilt or innocence.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 337.]

**6. Robbery (§ 23 (3)\*)—Defendant's Possession of Bill Similar to One Taken from Prosecuting Witness May Be Considered.**—In prosecuting for robbery, where prosecuting witness testified that a \$10 bill, taken from him, had "a binder and four horses on it" the fact that defendant had a similarly marked \$10 bill on him at the time of the arrest was a circumstance to be considered by the jury, together with the other facts in the case, notwithstanding the existence of numerous other similarly marked bills in circulation.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 954.]

**7. Criminal Law (§ 359\*)—In Prosecution of Negro, Testimony that Another Negro Had Been Convicted of a Felony Held Inadmissible.**—In a prosecution of a negro for robbery in which defendant denied having committed the crime, where there was testimony that another negro of about the same size as the defendant was in the town in which the robbery was committed at the time of the crime, and that he left under suspicious circumstances, testimony offered by defendant that such other negro had been convicted of a felony held inadmissible.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 308.]

**8. Criminal Law (§ 1180\*)—Approved Verdict on Conflicting Testimony Not Disturbed.**—The verdict on conflicting evidence which the trial court refused to set aside will not be disturbed; the credibility of the witnesses and the weight of the testimony being for the jury.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 312.]

Error to Circuit Court, Prince William County.

Winnie Harris was convicted of robbery, and he brings error. Affirmed.

*R. A. Hutchison*, of Manassas, for plaintiff in error.

*The Attorney General* and *Jno. R. Saunders*, of Richmond, for the commonwealth.

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MANSS-OWENS CO. v. H. S. OWENS & Son.

Jan. 20, 1921.

[105 S. E. 543.]

**1. Contracts (§ 32\*)—Contemplation of Formal Contract Does Not Disprove Agreement by Correspondence.**—The fact that a written

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.